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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,022	11/14/2003	Ly Cuong	07244-00147-US	2859

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EXAMINER	
SCHILLING, RICHARD L	

ART UNIT	PAPER NUMBER
1752	

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/714,022	CUONG ET AL.	
	Examiner	Art Unit	
	Richard L Schilling	1752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-19 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 11-14-03.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. The term "deformable plastic support" as used in the instant claims has been interpreted according to the definition in applicants' specification on page 5, lines 15-35, as being supports of polymers that are not stretched and are elongated with heat and pressure to a three dimensional shape which is maintained after cooling and pressure reduction without fracturing, exhibiting cracks or thermally decomposing.

2. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Thomson et al. in view of Ly et al. and European Patent Publication 1,089125. Thomson et al. (see particularly column 1, line 30 - column 2, line 50; column 3, lines 11-33; claims 1-12) disclose moldable photographic material comprising moldable supports, including polyvinyl chloride or polycarbonate, subbing layers, and multilayer light sensitive

color photographic emulsions used in processes comprising applying protective foils on developed material and molding the materials. The specific compositions of the multilayer color photographic layers are not set forth in Thomson et al. other than by conventional color photographic layers of AGFA Type 10 film. Ly et al. (see particularly paragraphs 1-15, 82-93, 105-108) teach using conventional or digital scanning to expose color photographic materials to obtain color images wherein the color photographic materials are disclosed as comprising red, green and blue sensitive silver halide layers with couplers and spectral sensitizing dyes. Ly et al. also disclose that the silver halide used is silver chloride doped with iridium to reduce fluctuation of photographic properties and reduce reciprocity failure and increase light and image stability. European Patent Publication 1089,125 (see particularly paragraphs 65-70; 78-86) also discloses forming color images by digital scanning or conventional exposure of color photographic materials comprising red, green and blue sensitive silver halide comprising silver chloride doped with iridium to reduce reciprocity failure. It would be obvious to use the color photographic materials disclosed in Ly et al. and the European patent publication as the called for multilayer light sensitive color photographic materials of Thomson et al. for sharp contrast, digital scanning

exposure capability with reduced reciprocity failure and stable latent images.

3. Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Thomson et al., Ly et al. and European Patent Publication 1,089,125 as applied in paragraph 2 above further in view of European Patent Publication 490,416. As explained in paragraph 2 above, it would be obvious to one skilled in the art to use the red, green and blue sensitive silver chloride emulsions doped with iridium as the called for multilayer color photographic light sensitive layers in the moldable photographic materials of Thomson et al. which contain subbing layers. European Patent Publication 490,416 (see particularly page 2, lines 3-5 and lines 37-58) teaches using subbing layers comprising protein, colloidal silica and siloxane to increase adhesion between plastic supports and hydrophilic, e.g. gelatin layers in photographic materials. It would be obvious to one skilled in the art to use the particular subbing layers of the European patent publication 490,416 as the subbing layers in Thomson et al. to increase adhesion between the plastic supports of Thomson et al. and the light sensitive color photographic emulsions of Thomson et al.

4. Claims 1-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over European Patent Publication 270,078 in

view of Ly et al. and European Patent Publication 1,089,125. European Patent Publication 270,078 (see particularly pages 3, 4, 7, 12, 13, 44, 45) discloses color photographic materials with red, green and blue sensitive silver halide, including silver chloride, on subbed polyvinyl chloride supports. The supports are not stretched and are inherently deformable as defined in applicants' specification. The use of iridium dopants is not disclosed. However, since Ly et al. and European Patent Publication 1,089,125 teaches the use of iridium dopants in silver halide emulsions to allow for digital scanning exposure with reduced reciprocity failure, with sharp contrast and stable latent images, it would be obvious to one skilled in the art to use iridium doped silver halide emulsions as in Ly et al. and European Patent Publication 1,089,125 as the called for silver halide in European Patent Publication 270,078.

5. The non-statutory double patenting rejection, whether of the obvious-type or non-obvious-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornam*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ 2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (b) and (c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78 (d).

Effective January 1, 1994, a registered attorney or agent of record may sign a Terminal Disclaimer. A Terminal Disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,818,390 and claims 1-17 of U.S. Patent No. 6,821,719 optionally in view of Ly et al. and European Patent Publication 1,089,125. The instant claims differ from the claims of the two U.S. patents to the same inventive entity as the instant application by setting forth the requirement of iridium dopants. However, the materials of the claimed inventions in the two patents are directed to scan elements with silver chloride emulsions which are disclosed in their respective specifications as containing iridium dopants. When the claims of the two patents are read in light of their specifications, the claims encompass the use of silver chloride emulsions containing iridium dopants. Also, since Ly et al. and European Patent Publication 1,089,125 discloses using iridium dopants in silver chloride emulsions in color photographic materials which are scanned to reduce reciprocity failure and provide stable latent images, it would be obvious to one skilled in the art to use iridium dopants in the silver chloride emulsions of the claimed inventions in the two U.S. patents in

order to reduce reciprocity failure during scanning and to provide stable latent images.

6. The prior art submitted by applicants has been considered. Kim et al. (column 8) is cited of interest in the art as disclosing AGFA Type Tin film as color print material. Wilson et al. (Example 13) is cited of interest in the art as disclosing color photographic materials with polyurethane supports which are not stretched. Bochow et al. is cited of interest in the art as disclosing color silver halide photographic materials on plastic foils.

7. Any inquiry concerning this communication should be directed to Mr. Schilling at telephone number (571) 272-1335.

RLSchilling:cdc
February 3, 2005

RICHARD L. SCHILLING
PRIMARY EXAMINER
GROUP 1400